And statesmen at his council met
Who knew the seasons when to take
Occassion by the hand, and make
The bounds of freedom wider yet
By shaping some august decree
Which kept his throne unshaken still,
Broad-based upon his people's will".

Mr. A. Eachara Menon *(Chittur-Tattamangalam):* After hearing speeches of various people I now see that I will be failing in my duty if I did not say a few words as representative of the Nayars of the Cochin State. Sir, we the Nayars of Cochin State are looking with pleasure to the on coming 80th birthday of His Highness the Maharaja of Cochin. We have always been loyal to H. H. and His Highness' family and we hope and pray God that we will be able to stand by H. H. whenever our help is required. We have stood by His Highness prosperity in season and out of season as well as in adversely and we hope we will be able to do so in years to come. May His Highness live long!

Mr. President: I should like to associate myself fully and whole heartedly with the expressions of loyalty and the felicitations which have been expressed by Hon'ble Members in all parts of this House. I shall now put the motion to the Council.

"This Council offers its loyal felicitations to His Highness Sri Ravi Varma, Maharaja of Cochin, on the occasion of the ensuing 80th birthday of His Highness",

Motion put and carried, all the Hon'ble Members standing

Mr. Parambi Lonappen *(Minister for Rural Development):* Sir, The business of House may be adjourned, before 10 minutes.

Mr. President: Yes.

The House rose for lunch at 1-20 p.m. and resembled at 2-30 p.m. with the Hon'ble Deputy President in the Chair

LEGISLATIVE BUSINESS

Non-official Bills

1. The Cochin Agriculturists Act (Amendment) Bill

***Mr. P. Kumaran Ezhuthassan** *(Vadakkancheri):* Under Standing Order No. 36 I beg to present the report of the Select Committee appointed to examine the question of the Agriculturists' Relief Act within the scope of Standing Order B-36 and in doing so I wish to make the following remarks. This Committee was constituted on the 25th of March 1944 as it is seen in the report submitted by the Select Committee on the 2nd March 1945 almost a year subsequent to its appointment. It consisted of eight Gentlemen, Hon'ble Members of this House, whose names also are seen there. Because of the new elections out of the six non-officials whose names are also noted in it as Nos. 3 to 8, only 2 have been returned to the Council. The remaining 4 members who were also in the signatories of the majority report to the effect that clauses 4 and 5 of the Bill that was sent to them for consideration, since they are not here and as the Select Committe report appertaining to the deletion of these clauses recommended by them does not give any reason in black and white excepting saying boldly that they of opinion that there is no case now for the deletion of the time limit fixed in Section 24. Except that bare statement what led them to take that view is not also here. We would have been benefitted by the reasons that these four would have given us to request if they were here but in the absence of those four we can get the opposition view or the view that supports the deletion only from the two spokesmen and representatives of the Government, namely, the Hon'ble Member for law as also the Hon'ble Member for Revenue, that is one and two in this list of signatories, not that they will not be able to satisfy us with an epitom of the reasons of the other members; but it would be not sufficient for us, a new Council wherein more members are now than a sprinkling of old members. It is desirable I think, Sir, that this Bill is remitted under the next clause of the same Standing Order to be looked into afresh and their considered opinion whether there is necessity for deleting that particular clause which is the subject matter of clause 4 of the original Bill to get their opinion whether it is necessary to retain or desirable to delete, to get such opinion from a new committee, I believe it will be better for me rather to move for a consideration of the bill as reported by the

*Speech not corrected by the Hon'ble Member.

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Select Committee. But it would be better I say to see that this Bill is recommitted naturally to a new Committee because the old Committee is not functioning. Therefore my idea at present is to move for as authorised by the next succeding sub-clause of S. O. No. 37 with limitations and specific directions for recommittal regarding the scope of the enquiry to be conducted to the all important Bill. With these observations, Sir, I beg to present the Select Committee Report and I think as authorised I will be within my limits if I move for a recommittal. I am referring to Standing Order 37, sub-clause 2.

Mr. Deputy President: The Hon'ble Member moves that the Bill be recommitted under S. O. No. 37, Sub-clause (2). That is the motion before the House.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : Something which is not on the order paper, unless allowed by the Chair, is not technically proper to be moved. Therefore I beg leave of the Chair to move this motion. Therefore, Sir, I move that this Select Committee report being of the type which I have just described to you and being not of the type helpful for this Council to take a decision certainly in the right direction to help this House composed as it is of very many new members, I hope that this House do agree to recomit this Bill to a committee composed of the names which I will presently mention. With this, limitation for not recomitting, it would be seen from the S. O. that my motion is one under 2 (*b*). The direction to be given to the Select Committee which I shall mention later on, rather immediately, is to submit a report with respect to clauses 4 and 5 of the original Bill whether there is absolute necessity to retain them or whether looking around everything that has been transpired and everything that is likely to be transpiring, whether it is in the interests of the interests concerned in the Agricultural Bill not to have those clauses under the Act. On that specific reference the Committee consisting of 4 of the original committee namely two Government Members, the Hon'ble Member for Law and the Hon'ble Member for Revenue, then No. 4 Mr. K. S. Panicker, who has signed the report subject to a dissenting minute to the effect that it is absolutely necessary to retain those clauses and with No. 8 the sponsor of the Bill who has had the misfortune to write a rather strong dissenting minute and who has supplemented that last sentence that proper steps for having the clauses retained will therefore be taken by me at the appropriate time" I have strictly followed that the amendments that are noted here in the Bill in implementation of the last sentence in my name dissenting minutes. It is that original bill that has been referred to the Select Committee composed of the 4 new members, I mention the names of Messrs. K. Balakrishna Menon, V. R. Krishnan Ezhuthassan, Paramel Ipe Ipe, K. T. Achyutan and P. Govinda Menon. This will be the 9 names of the Select Committee to consider this bill. I make that motion.

Mr. M. Sivarama Menon *(Advocate-General)* : Government are opposing this Bill and therefore this motion for the re-committal of the Bill is also opposed by Government. The main reason urged in support of the motion for recommittal is that the Select Committee report does not contain the reasons which induced the Committee to come to the conclusion that clauses 4 and 5 of the Bill are not necessary. At the time the Bill was being considered, a Full Bench of the High Court had occasion to consider the interpretation to be put upon section 24 of the Cochin Agriculturists Relief Act and the Court came to the conclusion that the time limit was deliberately imposed as a rule of limitation and that the application for scaling down should be made within 90 days of the commencement of the Act and all the reasons in support of that view have been set out in the judgment and it was considered unnecessary to repeat those reasons in the report of the Select Committee. The Hon'ble Mover has in his note referred to this Full Bench decision and has based his case for the retention of clauses 4 and 5 on account of the existence of that decision. Since the mover makes a point out of the report of the Select Committee in that they did not repeat the reasons, he presses for a recommittal of the Bill. This is really no ground for a recommittal. The reasons can be immediately mentioned and the House can consider them on their merits. They are quite simple and do not require further examinatio n by any other Committee.

The Act was passed to combat the situation brought about by continued economic depression which prevailed in the State from the year 1107. The prices of agricultural commodities had gone so low that agriculturists found it quite difficult to honour the contracts they had entered into for payment of their debts and liabilities. That situation has vanished and the position of agriculturists has considerably improved. The prices of agricultural products have soared up so high that there is no justification at all to invoke the provisions of this special legislation by way of relief to the agriculturits. In reality the time has arrived for a repeal of the Act and

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an attempt is made at such a juncture to amend a section of the Act which has worked itself out. The legislature which passed the Act consiciously laid down a period of limitation leaving no scope for any misunderstanding. They thought that the debtor and the creditor should be in a position to know within a reasonable time the amount that one has to pay and receive under the special provisions of the Act so that they may cast their budgets in the light of definite information regarding their assets and liabilities. It is like other laws of limitation embodied in the Limitation Act. The fact that some judgment debtors did not take advantage of the law by putting in their applications in time is no ground for a disturbance of the existing provisions. They have become defaulters for no fault of the legislature. The legislature can take notice only of the actions of an ordinary reasonable and prudent man and not of those who did not take care to guard their interests.

Clause 4 of the Bill relates only to decree debts passed before the commencement of the Act. We are now in the 7th year after the commencement of the Act. All those decrees must have been executed in the meanwhile. The amending Bill will disturb many a settled transaction and it is not proper to make such unsettlements off and on. It has also not been shown that the number of judgment debtors who have failed to take advantage of section 24 are far too large and that the default was due to a bonofide misunderstanding of the law. It is well-known that there was a rush of applications under the Act as soon as it was passed. The statistics of debts scaled down by courts have been published in the Gazette from time to time. They show that the general public had understood the law correctly and filed their applications in time. There is no duty cast upon us to go to the succour of a few negligent debtors. It may be that they are insolvents or that they may have parted with their properties or it may be that the properties which they owned then would have only covered up the debt. The rice in the value of the properties now is no justification for a disturbance of the existing provisions. Section 7(3) of the Act provides for the debts scaled down under the Act to be paid in two equal instalments in 1115. This indicates beyond doubt that the time limit under section 24 was imposed deliberately by the Legislature. These reasons render this motions for recommittal quite unnecessary.

The second ground urged by the mover for recommittal of the Bill is that some of the Hon'ble Members who were members of the Select Committee have not been returned after the elections to this House and that therefore it is necessary to recommit the Bill to a Select Committee of this House. I do not think that this is a justifiable ground for a recommittal. The House is only concerned with the reasons for and against the Bill. The only question that arises for consideration now is whether the time limit originally imposed should be taken away. A change in the policy of the legislature in respect of a special piece of legislation is one that can be attempted after such a lapse of time only if there are extraordinary and compelling reasons in support of such a move. No such considerations exist in the present case. I, therefore, oppose the motion for recommittal of this Bill to another Select Committee.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I wish to say a few words of explanation. We have to understand the scheme of the Act to see whether this time limit is necessary or was necessary or not. Now the debts that are scaled down by this Act are ordered to be paid in two definite instalments. Section 7 (3) of the Act says that this debt so scaled down shall be payable in two equal instalments falling on the last day of Makaram and on the last day of Karkadagam 15, so that you have to pay the debt on that day, that is on the last day of Makaram and on the last day of Karkadagam 15. Section 7 (3) definitely says that those who want to get the benefit of this Act must pay the debt in two instalments. It therefore becomes necessary to find out before these two days what exactly is the amount that is to be paid. The law says that interest up to 1107 shall be wiped off. Debts due by agriculturists and subsisting on the commencement of thit Act shall be scaled down in the manner mentioned herein. All interest outstanding on the first day of Chingam 1107 whether the same law is payable under any contract or under the decree of a court, shall be deemed to be wiped off. Interest up to that date is discharged. Thereafter it is only 6 per cent simple interest we have to calculate. This Act came into force on 1st Chingam 1115. That law says that principal and interest shall be payable on the 31st of Makaram and on the 31st of Karkadagam 1115. If a decree had been passed the decree has to be scaled down in that way. Now, what is the amount of the debt and what is half of it has to be ascertained so that the man who wants to take advantage of the law may pay it before 31st Makaram 1115 and 31st Karkadagam 1115. In Section 24 it has been laid down that where before the commencement of this Act a Court has passed a decree for repayment of a debt. It shall be scaled down on the application of any judgment debtor who is an agriculturist or any member of his family if he is a judgment debtor or a decree holder, and that such an application shall be made within 90 days of the commencement of this Act, that is from 1st Chingam 1115.

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Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* On a point of order, Sir, we are on the question of a recommittal of the Bill and not on the merits.

Mr. A. Madhava Prabhu *(Diwan-Peishkar):* I am only upon that.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* May I know from the Hon'ble Mover of this Bill what necessity is there for recommittal? Already there are two amendments here. Why should we waste time in this House unnecessarily?

Mr. Deputy President: Order, order. The Diwan Peishkar may continue his speech.

Mr. A. Madhava Prabhu *(Diwan-Peishkar):* There is no necessity for recommittal because it is clear that the reasons given by the Mover have not been accepted by the Select Committee. They say that these reasons are not acceptable and therefore sections 24 and 25 need not be deleted. I am only explaining these reasons. They are so self-evident that there is no need for a further elucidation of that matter at all. When the time limit is fixed as the last day of Makaram and the last day of Karkadagam 1115, it is necessary to find out that the amount payable is and therefore a time before the last day of Makaram and the last day of Karkadagam has been fixed. The law has stated that within 90 days of the commencement of this Act the decree holder should apply for a stay of execution. That is the reason. The decision quoted in effect lays down that sections 24 and 25, in Chapter IV, Procedure and Miscellaneous, control section 7 and that is what was in the mind of the Legislature. When it enacted section 7, it had in mind the time limit also, *i.e.*, that the application should be made within 90 days. In the Madras Act it is not stated that the application for scaling down should be within a particular date. In the Madras Act it is simply stated that the debts shall be scaled down.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Will the Hon'ble Member be pleased to read the Madras Act?

Mr. A. Madhava Prabhu *(Diwan-Peishkar):* Yes. I have gone through it and I have brought it. Section 7 of the Madras Act corresponds to our section 7. There is no sub-section for section 7 in the Madras Act, whereas we have a sub-section in our Act. The debts so scaled down shall be paid in two equal instalments falling on the last day of Makaram and Karkadagam 1115. The moment we made a departure from the Madras Act by which we laid down that the debt determined as scaled down has to be paid on those two days, it became necessary to know what the amount is, so the scaled down was. That is the special reason. If you read both the Acts and compare section by section you will find the reason in the Act itself. The time of 90 days in the section 24 of the Cochin Act does not find a place in the corresponding section of the Madras Act.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* I raise a point of order. The Hon'ble Mover of the motion stated two reasons that all the Members of the Select Committee are not present here now and the Majority Report have not given the reason. There is no reason, only the reply for this reasons can be given here. This discussion is irrelevant here. That is my point of order. It is either dilatory irrelevance or unknowing irrelevance.

Mr. Deputy President: Is the Diwan Peishkar opposing the Motion?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Yes. I am opposing the motion and giving the grounds for opposing it.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* It is not the ground for opposing the motion for recommittal. These are the points so self-evident.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* We have stated here the Select Committee report para 4 that the majority are against the amendment contained in clauses 4 and 5 of the Bill and there is no case for the deletion of the time limit in section 24. It is therefore self-evident. The reason is this. In the Madras Act that section is not there. Here it is there. There is no necessity to go into the Select Committee to understand this simple fact. The House can understand such a simple question without a select committee and there is no necessity for a select committee. If the House thinks it is irrelevant I shall sit down. I say that the point is very simple. My submission is that section 7 (3) is not in the Madras Act. It is here and therefore it is necessary for the time limit. The Select Committee report says that they are of opinion that there is no case for the deletion of the time limit under section 24. If this Bill was brought in 1115 the matter would have been entirely different. I therefore oppose this motion and say that there is no need for another select committee.

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*Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I do not really know how to make my reply. I feel that I am in an atmosphere which I cannot properly assess. I can understand the subtle opposition of the astute Law Member who very cleverly said that when a proposition has been stated in general terms, it is very difficult to see through the arguments and expose the fallacy of it. My Hon'ble friend who has passed and succeeded in doing it being associated within this Council as also in other ways. I have been able to see through it also. But the greater help for opposing the hollowness of the opposition, I am glad to say that I owe it to his follower, one who succeeded him the Hon'ble Member for Revenue began very well by saying that we have to look into the scheme of the Act. Cent per cent correct. And following that up he referred us to clause 3 of section 7 which fixes two 6 months' period instalments for payment of the entire debt. It has something which is not in the Act. So the Hon'ble Member for Revenue was telling this House that the necessity for the incorporation of a period of 90 days time limit within which scaling down application under section 24 has to be made is this and therefore he with legitimate pride according to his light called my statement earlier made in this House that there are no reasons given for incorporating the period of 99 days in section 24 unlike section 19 parallel section of the Madras Act, where it is seen. Correct. I say there is absolutely no reason given why this period of 90 days should find a place under section 24. That was my statement. The Hon'ble Member was quoting my own words utterred here earlier I still stick to them. My position then taken is perfectly correct. Cent per cent correct. I have stated here that no reason is mentioned. There are other persons, search wherever you will look into the original draft that was considered by this House, in 1944 look into the Select Committee report, look into the discussion, a copy of which I have got. Because the then Government thought it necessary that the provisions of this may be broadcast among the public. I have got a copy of it, as I have stated it.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* If all Hon'ble Members are here they will give the reason. Then what is the necessity for recommittal?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* So you side with the Government. Now this querry shows that.

Mr. K. Balakrishna Menon *(Cheruthuruthi):* On a point of information I would like to know whether the amendments tables could be incorporated even without a recommittal?

Mr. Puthur Achutha Menon *(Kattur):* The original Bill is not in the House. Two clauses are moved by the Select Committee. It is on these two clauses the arguments are advanced now? So we want to know from the Hon'ble Mover whether the amendments presented by him are not the same moved by the Select Committee.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* If the Government oppose it I must create the opinion in support of the amendment. But if the reasons must be stated for or against the deletion may be had by a Select Committee which can go into greater details than a discussion in this House. Of course I do not wish to proceed further. The discussion is not followed at all inclusive of the Treasury Benches. Therefore the arguments for and against are not arrested to be utilised for the purpose of voting.

Mr. Puthur Achutha Menon *(Kattur):* With your permission may I say a word. My question is whether the amendments tables by the Hon'ble Member are the same clauses that were rejected by the Select Committee.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Yes. The amendment standing in my name in that change are clauses 4 and 5 reported by the majority of the Select Committee to be deleted. The Hon'ble Member from Irinjalakuda, an eminent advocate, may easily get it. There are persons who are not advocates and whose vote may have to be arranged against the block here.

Mr. Deputy President: The Hon'ble Member will speak on his motion.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* To reply to such hollow arguments is something which I must expose and satisfy.

Mr. Deputy President: Will the Hon'ble Member kindly speak on the motion.

*Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I shall do so if I am not interrupted like this. I do not know what is the attitude of the Hon'ble Member representing this area. The Hon'ble Member for revenue was trying to expose the hollowness of my statement with no reason to be stated in any one of these spheres where enquiry has been made as to why 90 days

*Speech not corrected by the Hon'ble Member.

was mentioned and those spheres which we know the Hon'ble Members here and the House to peruse if they do undertake that task. Now a very ingenious reason is placed before the House by the Hon'ble Member for revenue. That is the introduction of a period of 90 days in section 24 unlike the parallel section 19 in British India was necessitated because of an extra clause 3 to section 7. That is the plausible argument. If nothing more is looked, if nothing more stated that is a clause fixing two definite periods, six months period, one to be paid on the 31st of Makaram 1115 that is within six months of the coming into force of this Act, the other is to be paid on the last day of Karkadagam 1115 that is within a period of six months which is not fixed in the Madras Act. So the ingenious argument was that that is the reason for fixing the two instalments. The hollowness of the argument is inherent in it. My point was this. Many a thing which is not in the Madras Act is not here. And those things which are not in the Madras Act are here. There are two samples of schemes present in the Madras Act, both in the Statutory portion of section 7 and in the procedural portion of section 24 corresponding to section 19. There are two things that are not there are here. But many things more vital and more beneficial to the agriculturists which are present in plenty in the Madras Act are deliberately omitted here. My statement will be born out by looking into some of the passages of the Hon'ble Sponsor of the Government Bill in Karkadagam 1114, Budget Session, Second Day. The then Secretary to the Government, not the present Secretary, has stated our model for this Bill is the Madras Act. But there are significant deviations from the Madras Act and the file shows one prominent thing. While in the Madras Act the principal is allowed to be scaled down those of the Lawyer Members of this House may know that the Madras Act is far ahead and in advance and beneficial to the agriculturists there, because something like the Hindu Law of " danduput " is followed here. I must confess Sir, that legislation is not very interesting, but it is an intelligent thing to be looked into and unless intelligently looked into we will be in a miasma.

Mr. Deputy President: The Hon'ble Member will please consider on the relevant portion of the motion.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I again refer to my previous request. If my speeches and arguments are not acceptably followed, reject and if they are appealing to them I may be supported by them without troubling me. I was upon the hollowness of the very ingenious arguments advanced by the the Hon'ble Member who trotted out the reasons for the presence of a period of 90 days in section 24 within which the judgment debtor has to apply failing which he looses every bit of the benifit conferred by this beneficial Act. For the simple reason of the judgment debtor of not applying to the parent court, which is the court which pass the decree, to have the decree scaled down, according to the provision of section 7—section is not scaling dowm section—according the provision of low, according to the interpretation now during the last one year put up on it by the highest court in the land, which we are bound to respect till we the legislators come to the rescue of the people adversely affected by the decision, the judgment is needed the benefit conferred upon the Act. Therefore I say whether the decision is the absence of the period. But there is no necessity for our clause 3, to be there Because there is no meaning in fixing a period, because many a debt would have been wiped off because of the doctrine of "danduput". One who has paid as much as the the principal borrowed there is nothing further to be paid and the man can sleep in his house though the so-called decree holder debtor would have obtained a decree for thousands of rupees against him. That is the essence of the Madras Act. That is one who has paid double the amount borrowed is completely free from any further payment. The legislation which was passed by the National Government, a responsible Government, which therefore gave an appropriate relief to the hard-hit agriculturists who were groaning under the weight of hoarded up dues to wash off, was the reason for the passing of that Act by the National Government which was the far-most in the whole of India. That is the type of the Government that passed the Bill. What is the type of the Government that passed this Government Bill. Please again refer to the opening remark of the sponsor of the Government Bill. When giving the quotation of the sponsor of the Government Bill, two Bills as far as I know, one by the Ministerialist Section and the other by the oppposition almost following their own ideal, the Madras Act, were in consideration at the time when the Government came forward with the Bill. The Government do not see eye to eye with many of the provisions of the two Bills that are under consideration here. Hence as a matter of compromise, we came forward with this via media. That is the scope of the Bill. I may say rather painfully that this Government must be ashamed to say that this Bill has anything approaching in the Madras Act. I have already explained the prominent defference and that was the argument given. There is no necessity for a clause like 3 because I know of a certain quotation

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from my earlier speech which was searched out and quoted. But the same quotation quoted a decision of the Madras High Court which holds to agree that whenever a judgment debtor wants to apply to have the decree scaled down he has got right for the reason that there is no timelimit fixed. If in section 19 of the Madras Act the time limit had been fixed this observation in that decision quoted by him would not have been made.

M. P. Govinda Menon *(Ernakulam):* Is there a time limit for rent decrees?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am referring to section 19 and if the object is not the patent one I shall leave it there. I know the cleverness. Now the subject matter under discussion is the subject matter of the scaling down of agriculturists' debts as distinguished from the debts of an agriculturist tenant. There is a sharp difference thrown in the enactment here between an agriculturist debtor and an agriculturist tenant. Different provisions are incorporated in both the Acts to deal with agriculturist tenants in contra distinction to agriculturist debtors I was on the hollowness of the Hon'ble Member, the Diwan Peishkar's reasoning. I have shown that the existence of clause 3 in section 7 fixing a period of six months which is absent in the Madras Act, was trotted out as an argument for the presence or the incorporation of 90 days in section 24 which applies to scaling down all debts which is not present in the Madras Act. Therefore I think that persons who can follow an argument, technical as also laymen it is understandable. Probably technically qualified men may trot out hairsplitting arguments and prick holes in the arguments. Unto them I bow. Yesterday I said that law is common-sense. I have tried to explain that the presence of clause 3 to Section 7 cannot be a justification for the presence of the period of 90 days in clause 24. Again look into section 24. Section 24 says who are all the persons to apply for a scaling down. Section 24 is to this effect that if within 90 days from the commencement of this Act a decree holder or judgment debtor may apply to the Court which pass the decrees which will scale down the decree according to the provisions earlier made. Without going into the discussion of the High Court which is not relevant here, the High Court has held interpreting Section 24 should be read along with the relevant sections and going into the scheme of the Act even referring to a Select Committee report which was appointed. Quoting all that our High Court is of opinion that unless a judgment debtor applies to have the decree scaled down within 90 days from 1-1-15, the decree as it stands, whether the rate of interest decreed is a high percentage, or whether the interest is for a very long period, whatever is seen on the face of the decree has to be paid. That is the gist of this decision which was referred to by the Hon'ble Member for Law, a decision reported on page 530. That is a decision in disposing of second appeal. That is the sum total of all the labours of the High Court. A careful perusal of that judgment would show that although that identical High Court itself decided otherwise on an earlier occasion and although in another case a strong dissenting judgment had been written by an Hon'ble Judge of that Court who was at the time of the passing of the original Act the Advocate General here—I am referring to the recently retired Chief Justice, Mr. Raja who was the then Advocate General here—. There is a strong dissenting judgment of his. The word "may" was interpreted as being not imperative on the part of the judgment debtor to apply within 90 days. If he cares he can apply at any time and if he applies it may be scaled down and that in the case of a man who has not applied like that his right to get the behefit of the Act is not taken away from him. That is the gist of the judgment and the other is the gist of the majority view.

Therefore where we are according to the law contained in the interpretation to it upon this section end of the relative sections of the act by the Highest tribunal in the land the benefit that is given contemplated to be given to the Agriculturists is taken away by that decision. The attempt of the legislature in contra distinction to the High Court is that the difficulty that confronted the highest tribunal in the land and caused them to interpret the law and lay down the law as is laid down under reference that difficulty has to be removed by the deletion of the period of 90 days from section 24, and that with very good reasons. It is not in Madras Act. If that is not I do not say that alone is a reason. There was a decision in the Madras Presidency by a District Court on this question. Where is the necessity for these 90 days. The essence of the judgment which was reported in the papers is that if a decree holder wants the luxury of a scaling down of a decretal amount of 1,000 rupees there is a provision which will reduce it to 500 rupees. He can have the pleasure of putting 500 rupees in his pocket. That alone is the purpose. Therefore my submission Sir, is without going into the reasons advanced by the majority judgment in this case which also the other side of the picture with equal force which shows there is no use of shuting our eyes though the decision of the highest court has already been accepted. If that is something which according to

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some of us is not conducive to the working out properly of the Agriculturist Act with the desired object and decisions, if the decisions stand in the way, it is our duty as Legislators, more the duty of the learned men of learned profession to see that the difficulty is obviated. The interpretation is not made by the decision the most important reason is that the period of 90 days is there and we are helpless. By intelligent interpretation according to them with regard to the various qualifications given there it is impossible to interpret it as being one which means you can apply for scaling down at any time. They have come to the conclusion for this reason amongst many others. Therefore it is Sir, that these clauses more than others are necessary to be retained in the Bill it the Agriculturists Relief Act is to serve the purpose for which it was enacted. From that date of that decision I thought and as I pointed out by the Law Member before us had to report there was this decision which was pointed out by him. Therefore I have stated that necessity for the retention of these clauses is further accentuated by the decision 10 C. L. Journal. With due diference to the authority concerned I have stated in my objects and reasons the laboured arguments in the Cochin Law Journal Case is sufficient to warrant the retention of these clauses in the Bill so that the mischief brought about by the decision may be undone. That accepted in another case with a greater amount of argument which contained this disenting argument very pungent to the point and explanatory and meeting all the other points. But one against to is a helpless case. Because of these reasons we have come to the rescue. The provinces of the Legislature is to make law and in making law see that no difficulty arises, either in the lower courts or even in the highest court in interpreting, *i. e.*, use explanatory words which are not capable of two interpretations but which are in other words capable only of one interpretation. This is an attempt of that sort. It is in that case, Sir, that I request in order to it and considered opinion of all competent persons to look into that question that this Bill be recommitted to the committee which I mentioned so that we may have the benefit of their concentrated opinion. It will be a guide to us in that if we report against we are to accept it. That is all the motion before the House. There is the question whether the clause proposed to be deleted by the Select Committee are word for word necessary or not. Then the other question is could we not consider whether these amendments are necessary without the help of a Select Committee Report. I do not think it is possible, here. It requires very calm attendance to every word that is said here, what ever escapes the lips of the law member or the person who attends the arguments or even at times we will require the presence of Government members. Every word that escapes the lips of every member will have to be carefully, patiently, and intelligently followed. In that case without a recomittal without going into the bill clause by clause this could not be disposed of. I think these will be the pre-resqisites of such a disposal. It is too much to be expected at any rate to day. We are almost at the fag end of this meeting to day; a period which is not fit for a serious discussion. It will create laughter. Further our legislation is intended for the benefit of the agriculturists. Therefore coming under the relief of the agriculturists by employing the legislature by legislating properly which alone they can interpret. The province of legislation is to make law and as I said earlier make a law which is only capable of one interpretation. This has been intelligently shown by one of our eminent Chief Justices one or two years back retired, I mean the Hon'ble Mr. Raja. I am only saying that the province of the judicature or be judiciary is to interpret a law good, bad or indifferent and find out what the legislature intended. They cannot make law. That is not their province. The province of making law is the Legislature. Their intention was different. Let them do the appropriate thing. If the Government also think like that they can also bring in an amending legislation. For instance when Government found that a piece of legislation could not be worked properly they immediately came forward to implement that suggestion with an amending act. We readily agreed. Now the Agriculturist Act you must remember Sir, is an Act which is not liked which is not looked with pleasing eyes of the capitalists and any other section of this capitalist Government certainly will not come forward with an amending act. Hence double is our duty. It is our certainly will not come forward with an amending act. Hence double is our duty. It is our duty to force it upon them. By a recommittal we get the concentrated opinion of the Committee.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* May I know once more the subject matter that the new committee will be asked to enquire?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* The subject matter to be enquired into is whether it is not necessary to retain clauses 4 and 5 of the Bill.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* Yes. That is enough.

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Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I submit sir, that of course I was not able to get the previous consent of my learned friend, the Hon'ble Leader of the Prajamandal Party. He was not available for consultation whether he will be willing to serve on the Committee. Presuming that he will give his permission I suggested that his name also may be included. There is also another thing. The number will become 9. If it is number 8 there may be a time with number 9 a clear majority might also be possible. Therefore I would suggest his name also.

Mr. Deputy President: The question is that the Cochin Agriculturists Relief Act (Amendment) Bill be recommitted under S. O. 37.

Mr. M. Sivarama Menon *(Advocate-General):* With respect to clauses 4 and 5.

Mr. P. Kumaran Ezhuthassan *(Vadakkanckeri):* That is what I move.

Mr. Deputy President: The motion that the Bill be referred to a Select Committee under S. O. 37 in respect of clauses 4 and 5 was put and carried.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I submit sir, that the time may be fixed, the report may be made available within a month so that it may be considered in the Makaram Session. I think I have got the right to move that the period may be put within one month.

Mr. Deputy President: Has the Advocate-General anything to say to that?

Mr. M. Sivarama Menon *(Advocate-General):* It is rather too short. But of course I leave it to the House.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* What I suggest is that the Select Committee report may be made available for consideration for being presented to the House by me clause after clause in the next meeting normally it comes in Makaram. I may also say that the Select Committee report must be made available to the Members 12 days prior. If one is inclined to fight against the Bill he could raise that objection *i.e.*, the non-receipt of the report before 12 days. Hence my request that the Select Committee report may be made available with in one month. We will agree to make some sacrifice to have this in one month.

Motion put and carried

2. The Christian Succession Act (Amendment) Bill

Mr. C. J. Cherayath *(Nellayi):* Mr. President Sir, The Christian Succession Act Amendment Bill which stands now in my name was previously introduced before this House in the last Council by Mr. C. V. Iyyu. It had been referred to a Select Committee. Before the Committee can submit its report the term of that old superanuated Council was terminated.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* Nay, super experienced Council.

Mr. C. J. Cherayath *(Nellayi):* And hence I am now only seeking to give a fresh chance for this Amendment Bill of Mr. Iyyu to see whether it can be passed into law and incorporated into the Christian Succession Act. And I move for a special Order under S. O. 4 for this Christian Succession Act (Amendment) Bill.

Mr. K. T. Achyuthan *(Ezhuvas-Mukundapuram):* I second it.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* Mr. Deputy President Sir, I oppose the motion. I oppose the motion with a certain amount of reluctance, fearing that I would be misunderstood that it is being opposed by me because it is a Bill originally introduced by my rival in the election. But on principle I have to oppose it; there is no exigency for enacting such a legislation. As the time before us is very limited I do not mean to refer to the Bill clause by clause. Firstly regarding objects and reasons what is stated there is that a christian who has unfettered powers to will away his property, is not making adequate provision for the maintenance of the widow in his will. Whether such instances are so very common among the Chritian community is the question now. There may be some stray cases one or two, here and there. Rare or very few such instances will not be a ground to make such a piece of legislation. The second point is whether this full and free right to will away the whole property can be encroached upon the simple reason that there may be one or two instances of wills not adequately providing for the widows as apprehended by the Bill. That Christians, as a Class, have this right to will away the whole property or to transfer it completely even in the name of a stranger. This right is enjoyed by them from time immemorial. The Tharavad property as understood in the Hindu Law or the Marumakkathayam Law is something foreign to the Christian Community. The same is the

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